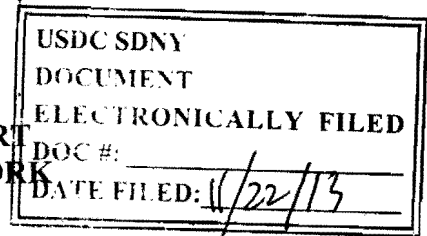


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



FOX NEWS NETWORK, LLC,

Plaintiff,

- against -

TVEYES INC.,

Defendant.

Case No. 1:13-cv-05315-AKH

ECF Case

~~PROPOSED~~ CIVIL CASE
MANAGEMENT PLAN

After consultation with counsel for the parties, the following Case Management Plan is adopted. This plan is also a scheduling order pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure.

- A. The case is to be tried to a jury.
- B. Non-Expert Discovery:
 - 1. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. All non-expert discovery is to be completed by April 3, 2014, which date shall not be adjourned except upon a showing of good cause and further order of the Court. Interim deadlines for specific discovery activities may be extended by the parties on consent without application to the Court, provided the parties are certain that they can still meet the discovery completion date ordered by the Court.
 - a. The parties shall list the contemplated discovery activities and anticipated completion dates in Attachment A, annexed hereto.
 - 2. Joinder of additional parties must be accomplished by December 1, 2013.
 - 3. Amended pleadings may be filed without leave of the Court until December 1, 2013.
- C. For all causes of action seeking monetary damages, each party shall identify and quantify in Attachment B, annexed hereto, each component of damages alleged; or, if not known, specify and indicate by what date Attachment B shall be filed providing such information.
- D. Motions, Settlement, Second Pre-Trial Conference, and Expert Discovery:

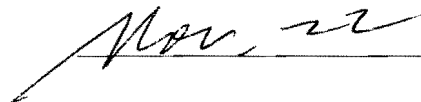
1. Upon the conclusion of non-expert discovery, and no later than the date provided below, the parties may file dispositive motions. The parties shall agree to a schedule, and promptly submit same for the Court's approval, providing for no more than three rounds of serving and filing papers: supporting affidavits and briefs, opposing affidavits and briefs, and reply affidavits and briefs. The last day for filing dispositive motions shall be June 26, 2014.
 - a. There shall be no cross-motions. Any motions not made by the agreed date shall, unless the court orders otherwise, not be considered until after the timely-filed motion is determined.
 - b. Papers served and filed by the parties shall conform to the requirements set out in the Court's Individual Rules.
 - c. Opposition briefs are due on July 24, 2014 and reply briefs are due on August 7, 2014.
 2. Either before or after the motion schedule set out above, counsel for the parties shall meet for at least two hours at the office of plaintiff's counsel, to discuss settlement. The date for the meeting is August 21, 2014, at 9:30 a.m. (At the option of either party, the date may be canceled upon the service or filing of a dispositive motion and notice to the court.)
 3. Approximately one week thereafter, the parties shall meet with the Court for a Second Case Management Conference to discuss the status of the case, the status and prospects of settlement and whether alternative disputes-resolution procedures should be utilized, the need for and a schedule regulating experts and expert-discovery, a discovery bar date, and any other issue counsel or the Court wish to discuss. The Case Management Conference will be held on Aug. 22, 2014 at 10:00 a.m. (The Court will set this date at the Initial Case Management Conference.)
- E. Any request for relief from any date provided in this Case Management Plan shall conform to the Court's Individual Rules, and include an order, showing consents and disagreements of all counsel, setting out all dates that are likely to be affected by the granting of the relief requested, and proposed modified dates. Unless and until the Court approves the proposed order, the dates provided in this Plan shall be binding.
- F. A final pre-trial conference will be held on a date to be set, as close as possible to the date that trial is expected to begin. The parties, three days before said meeting, shall submit their pre-trial order, conforming to the Court's Individual Rules and, at the conference, deliver their exhibit books containing all exhibits the parties actually intend to offer at the trial.


G. Pre-Trial Motions:

Applications for adjournments and for discovery or procedural rulings will reflect or contain the positions of all parties, and otherwise conform to my Individual Rule 1(D). Unless the Court rules otherwise, motions shall not modify or delay the conduct of discovery or the schedules provided in this Case Management Plan.

SO ORDERED.

DATED: New York, New York

 , 2013


ALVIN K. HELLERSTEIN
United States District Judge

ATTACHMENT A

The Parties are to list the discovery activities (i.e., production of documents, number of depositions, requests to admit, interrogatories) and anticipated completion dates:

<u>DISCOVERY ACTIVITIES</u>	<u>COMPLETION DATE</u>
1. Initial Disclosures Due	October 28, 2013
2. Document Productions Substantially Complete	February 18, 2014
3. Last Day to Serve Interrogatories, Requests for Production, and Requests for Admission	February 28, 2014
4. Last Day to Serve Opening Expert Reports	April 10, 2014
5. Last Day to Serve Rebuttal Expert Reports	May 8, 2014
6. Close of Expert Discovery	June 5, 2014
7.	
8.	
9.	
10.	

ATTACHMENT B

For all causes of action seeking monetary damages, each party shall identify and quantify each component of damages alleged:

1. PLAINTIFF'S CLAIMS:

With regard to Fox News' copyright infringement claim, Fox News will not elect which measure of damages it seeks, actual or statutory, until the appropriate time at trial. If statutory damages pursuant to the Copyright Act are elected, Fox News seeks \$150,000 for each willful copyright infringement and \$30,000 for each non-willful infringement. If statutory damages are not elected, Fox News seeks monetary damages in the form of actual damages, including but not limited to its lost licensing opportunity, as well as TVEyes' profits to the extent they do not encompass Fox News' actual damages. The calculation of actual damages is expected to require expert analysis of financial information, which Fox News anticipates will be produced by both parties in discovery.

With regard to Fox News' remaining claims, Fox News seeks all damages suffered by Fox News and any profits or gain by TVEyes attributable to infringement of Fox News's intellectual property, as well as punitive damages.

Fox News also seeks costs and disbursements of this action, including reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505, and pre- and post-judgment interest, to the fullest extent available, on the foregoing.

2. COUNTERCLAIMS AND CROSS-CLAIMS:

N/A

3. THIRD-PARTY CLAIMS:

N/A